

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
MARCH 10, 2010**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Gordon Cross, Charles Lapp, Frank DeKort, Marc Pitman, Mike Mower, Jim Heim, and Bob Keenan. Jeff Larsen had an excused absence. Andrew Hagemeyer, Dianna Broadie and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 11 people in the audience.

**APPROVAL OF
MINUTES**

Pitman made a motion, seconded by Hickey Au-Claire to approve the February 10, 2010 meeting minutes as corrected.

Cross brought to the board secretary's attention the need to change the word table to postpone on page 4 of the minutes.

The motion passed by quorum.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**CADY ET AL
(FZC 09-07)**

A Zone Change request in the Evergreen Zoning District by Richard Cady, Frank Miller, Rick Clay, and MTH, LLC. The proposal would change the zoning on five parcels, 4.4 acres, from R-2 (One-Family Limited Residential) to B-2 (General Business). The properties are located off West Reserve Drive, between Scenic Drive and Shadow Lane.

STAFF REPORT

Andrew Hagemeyer reviewed Staff Report FZC 09-07 for the Board.

**BOARD
QUESTIONS**

None.

**APPLICANT
PRESENTATION**

Erica Wirtila, Sands Surveying, recounted the history of the zone change application which included existing uses and non compliant uses. She knew of no public comment.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Richard Cady, 53 W Reserve Drive, wanted to bring to the attention of the board he was at a meeting the planning board held on Monday, March 1st of all the owners of property from Shadow Lane to the river. He said at the meeting, they wanted all of the owners of the properties which came onto Reserve to change the use of the properties so they could be used as commercial. When the bypass went through, there would be a lot more traffic on West Reserve and the highway department was talking about making the road into a four lane. The property owners felt the best use for the property was commercial.

Lapp asked who wanted the entire property commercial at the meeting.

Cady asked Grieve who the man from the zoning office was.

Grieve said he needed to step in. The meeting was hosted by a landowner who wanted to do an amendment to the master plan. The zoning office attended because they found out about it and had been working with that person. The zoning office did not host that meeting nor was that meeting advertised by the office. He wanted to make that abundantly clear.

Cady and Grieve discussed who was at the meeting from the planning office, and who held the meeting.

Grieve said he was clarifying this now because this issue could become very confusing very fast and people got really keyed up about this subject.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**BOARD
DISCUSSION**

Cross asked if the master plan was to be amended, what the stated procedure was.

Staff and Cross discussed what the procedure would be and what areas would be included.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC 09-07)**

Heim made a motion seconded by DeKort to adopt staff report FZC 09-07 as findings-of-fact.

**BOARD
DISCUSSION**

Lapp asked for clarification on several points in the application concerning commercial uses, whether they were grandfathered, and non conforming uses.

Frank Miller, 55 West Reserve, recounted the history of his business on West Reserve and the steps he had taken for his business to make sure it was conforming.

Lapp said this change would bring all the businesses into conforming uses. He asked about a discrepancy he found on the maps in his information which concerned zoning designations.

The board, staff and Wirtila discussed at length which zoning designations were correct.

Lapp asked why Clint Theline, minister at Faith Baptist, had meetings to change the zoning in the area.

Hagemeier said Theline wanted to change the designation on the land use map to commercial and explained why.

The board and staff discussed the designation and whether traffic would increase if West Reserve was changed to a four lane.

**ROLL CALL TO
ADOPT F.O.F.
(FZC 09-07)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
(FZC 09-07)**

Pitman made a motion seconded by DeKort to adopt Staff Report FZC 09-07 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC 09-07)**

On a roll call vote the motion passed unanimously.

**SCHLEGEL/
BOLL
(FZC 09-08)**

A Zone Change request in the Bigfork Zoning District by Louis Schlegel, Mark Schlegel, and Jeff and Danielle Boll's. The proposal would change the zoning on five parcels, 42.48 acres, from AG-20 (Agricultural) to SAG-5 (Suburban Agricultural). The properties are located off Montana Highway 35 with access from Parkers Lake Drive, a private road.

STAFF REPORT

Dianna Broadie reviewed FZC 09-08 for the board.

**BOARD
QUESTIONS**

Cross asked when BLUAC met, and why they did not have minutes emailed to them.

Wirtila said they had a substitute secretary that night.

The board, staff and Wirtila discussed the zoning to the north and east of the property, what agricultural uses were in the area, the topography of the area, and a typo in the staff report.

**APPLICANT
PRESENTATION**

Erica Wirtila, Sands Surveying, said the applicant was interested in a family transfer, and gave a brief history of the application.

**BOARD
QUESTIONS**

Cross asked her to comment on the public comment letter received by the board concerning promises made by the original owner. He asked if there were other people out there who were made the same promises.

Wirtila said she had not been contacted by anyone else. It was not Mr. Schlegel's intent to become a developer and develop the land to its full extent. She could not speak for Mr. Boll.

Heim asked if the 5 acres to the southwest were owned originally by the same man who owned the property in question.

Wirtila did not have the answer to that question. As far as agricultural uses, Mr. Schlegel did keep some cattle.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Gary Ridderhoff, 250 Swan River Road, Bigfork, member of the BLUAC committee was there to answer any questions the board had. Sue Hanson, BLUAC secretary, was not at the meeting and Pat Wagner filled in for her. He apologized for the minutes not being emailed to the members of the board.

Cross asked if he could speak to the letter at all.

Ridderhoff said he could not, it was not with the information they received.

Cross asked if Broadie had represented the information she had received in a phone call from the man who wrote the letter.

Broadie said yes, she had.

Louis Schelgel, Parker Lake Rd, Bigfork, gave a history of the property and explained why he wanted to be able to give five acres to his family.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZC 09-08)**

Pitman made a motion seconded by DeKort to adopt staff report FZC 09-08 as findings-of-fact.

**BOARD
DISCUSSION**

Cross questioned finding #2. He did not see how this application would reduce sprawl.

Broadie explained how she came to the finding.

**SECONDARY
MOTION TO
(Amend F.O.F. #2)**

Cross made a motion seconded by Pitman to amend finding of fact #2 to read; This proposed zone change will ~~reduce sprawl which in turn lessens congestion by lessening traffic trips. It will do so by placing~~ increase density, however, congestion will not cause an adverse affect to the surrounding area because it will place appropriate densities within reasonable distance of services.

**ROLL CALL TO
(Amend F.O.F. #2)**

On a roll call vote, the motion passed unanimously.

**ROLL CALL TO
ADOPT F.O.F.
(FZC 09-08)**

On a roll call vote, the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL
(FZC 09-08)**

Pitman made a motion seconded by DeKort to adopt Staff Report FZC 09-08 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Lapp wanted to make a comment that the criteria just under discussion had been changed in the new criteria.

Mower wanted to say he wished the board would stop justifying zone changes by what individuals wanted to do with their property. They need to look at zone changes on their own merits. The fact of what the property owner wanted to do with it was meaningless. What could happen and happened all the time was if the property was SAG-5, at some time in the future, there would be a whole bunch of five acre parcels there. He thought the people who made the presentations and staff should let the applications stand on their own merit without regard to what the people were trying to do with them. He supported this application and thought it was appropriate, but not because the applicant wanted to do a family transfer.

**ROLL CALL
TO
RECOMMEND
APPROVAL OF
(FZC 09-08)**

On a roll call vote the motion passed unanimously.

**VICTORIA
NOBLE
(FZTA 09-05)**

A request by Victoria Noble for a zoning text amendment to the Canyon Area Land Use Regulatory System, (C.A.L.U.R.S). The proposed amendments include adding a new category to Chapter 6, 6.2 Middle Canyon Region (C) Major Land Uses (10) Dog Day Care; and adding Dog Day Care performance standards to Chapter 4, as Section 4.1 (H).

STAFF REPORT

BJ Grieve reviewed FZTA 09-05 for the board.

**BOARD
QUESTIONS**

DeKort asked for clarification on the staff report.

Pitman asked what the 'sufficient size' for indoor housing of the dogs would be.

Grieve said the sufficient size was debated extensively. The sufficient size would be at minimum USDA standards for dogs.

Cross asked if these facilities had to be inspected.

Grieve said not to his knowledge. Kennels were regulated by the state. Dog daycare was not regulated or licensed by the state. They would have limited hours of operation, they were not regulated and that became the issue of how to insure adequately maintained and managed facilities.

Mower did not know where the applicant would get all their customers from. Dog daycare facilities were usually in heavily populated, metropolitan areas.

Grieve said staff's understanding was there was significant need from people who go to the park during the summer.

Pitman said dog people use the internet to find where they could put their dogs while recreating.

**APPLICANT
PRESENTATION**

Nicolas Lee, 11570 Belton Pt. Rd. West Glacier, husband of Victoria Noble, applicant, wanted dog daycare allowed in the canyon. He gave a history of and the footwork which had gone into the application.

**BOARD
QUESTIONS**

None.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Sally Thompson, P O Box 302, West Glacier, was for the application. She was one of the owners of Glacier Raft Company and Glacier Outdoor Center and saw the need for the dog daycare. She recounted how they, as a business, had handled dogs of customers in the past and how that was not feasible now.

Kathleen Flint, P O Box 447, West Glacier, has a campground one mile west of West Glacier. She was for the application.

**APPLICANT
REBUTTAL**

None.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT
F.O.F.
(FZTA 09-05)**

DeKort made a motion seconded by Hickey Au-Claire to adopt staff report FZTA 09-05 as findings-of-fact.

**BOARD
DISCUSSION**

Cross asked if there was anywhere appropriate to add the fact they heard public testimony there was an economic need for this provision.

Grieve and Cross discussed where the economic situation was addressed elsewhere in CALURS.

**ROLL CALL TO
ADOPT F.O.F.
(FZTA 09-05)**

On a roll call vote, the motion passed unanimously.

**MOTION TO
RECOMMEND
APPROVAL OF
(FZTA 09-05)**

Hickey Au-Claire made a motion seconded by Heim to adopt Staff Report FZTA 09-05 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Mower wanted to commend the applicants for their persistence.

Lapp wanted to second that sentiment. He felt what the applicants had done for the application was the way it was supposed to be done if a person wanted to do something different than the zoning allowed. He asked the applicant if he was comfortable with the 11 criteria.

Lee said the indoor use, performance standard #9, which stated the entire dog population needed to be put inside was a bit excessive for him.

Lee, Grieve and the board discussed the pros and cons of the performance standard which concerned the housing of the dogs at length and the difference between kennels and day care.

Grieve said the standards before the board were a product of many meetings, communication, a lot of work and compromise by both sides of the issue. He gave a history of what had gone into the application.

Lapp reviewed the space allowed for each dog and asked if that wasn't excessive.

Grieve said the stipulations on space was to ensure a dog daycare would not be opened in the middle of town or be operated out of a small space such as a condo or townhouse.

Lapp recounted when he worked at the golf course in West Glacier how they would handle dogs who were left when people wanted to recreate in Glacier Park. He felt an 8 foot high fence was overkill.

The board discussed how a dog could escape with a 6 foot fence.

**MOTION TO
(Amend
Performance
Standard #5)**

Lapp motioned and Hickey Au-Claire seconded to amend performance standard #5 to require 6' fences rather than 8' fences.

**BOARD
DISCUSSION**

The board discussed if a dog could crawl over a 6 foot fence.

Mower said the applicant arrived at this application after a great deal of discussion and compromise. He felt they should approve the application as submitted. They should not change it unless they felt there was something untenable.

Cross agreed.

**ROLL CALL TO
(Amend
Performance
Standard #5)**

On a roll call vote, the motion failed, 7-1 with Lapp voting for the motion.

**BOARD
DISCUSSION**

Lapp felt they should put more specifics in Performance Standard #9, perhaps including the USDA standard so there was something concrete to refer to.

The board, applicant and Grieve discussed the merits of including a standard in performance standard #9.

**MOTION TO
(Amend
Performance
Standard #9)**

Lapp motioned and DeKort seconded to amend performance standard #9 to read; The indoor portion of the dog day care operation shall be of sufficient size (per USDA standards) to accommodate the maximum number of dogs that the operation would care for at any one time. Indoor shall mean inside a building with a roof, walls and a floor which is insulated and would contain noises associated with dog day care. Floor plans showing adequate indoor square footage shall be submitted with any application for Dog Day Care.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
(Amend
Performance
Standard #9)**

On a roll call vote, the motion passed unanimously.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZTA 09-05)**

On a roll call vote the motion passed unanimously.

**COMMITTEE
REPORTS**

Hickey Au-Claire said committee A had not met since the last board meeting.

Cross said committee B had not met since the last board meeting either. He said there was a workshop scheduled in April to go over the current L-T-R draft. He updated the board on the progress of the revised flood plain regulations.

Pitman and Cross updated the board about concerns on requirements for conservation easements.

Mower said everyone would have concerns.

Pitman updated the board on a flood plain conference the county was unable to attend because of the cost.

OLD BUSINESS

Cross said a letter was sent out to Whitefish, Kalispell, and Columbia Falls to meet with the county representatives on the boards. He updated the board on the responses.

Mower said he had talked with several city planners who were charged with longterm planning of annexation. He felt the

county should be included or kept in the loop because it did affect the county.

Cross continued his update of responses to the letter which was sent out.

The board and Grieve discussed at length options to the responses and why it was important for the different boards in Flathead Valley be in communication with each other.

Cross asked for an update on the Lakeside Neighborhood Plan.

Hagemeier briefly updated the board on the status of the plan.

The board and Hagemeier discussed at length the status of the plan and the best way to proceed.

The board discussed the draft Transportation Plan which was handed out before the meeting.

Grieve talked about the BOA Revocation text amendment and the fact the commissioners sent it back to the board for more work.

The board and Grieve discussed at length problems with the text amendment with regard to legality, other counties with similar revocation text, and a request for minutes or recording of the commissioners' meeting on the topic as well as the inclusion of the BOA in contemplation of the text amendment.

Grieve gave an update of information available currently online.

Cross talked about making the information they receive paperless.

The board and Grieve discussed at length alternate ways to receive information. The decision was made to test the paperless ways to receive information for the next meeting which will be April 14, 2010.

Grieve asked if the board had any comments on report templates which had been emailed to them for suggestions. He also asked for feedback on the reports and presentations at this meeting.

The board and Grieve discussed the improvements in the AV in the conference room and the plans to continue to improve presentations.

The board liked the succinctness of the reports presented.

NEW BUSINESS None.

ADJOURNMENT The meeting was adjourned at approximately 8:30 pm. on a motion by Keenan. The next meeting will be held at 6:00 p.m. on April 14, 2010.

Gordon Cross, President

Donna Valade, Recording Secretary

*APPROVED AS SUBMITTED/ **CORRECTED**: 4/14/10*